

## REPORT TO DEVELOPMENT MANAGEMENT COMMITTEE

**REFERENCE:** HW/FUL/22/00301

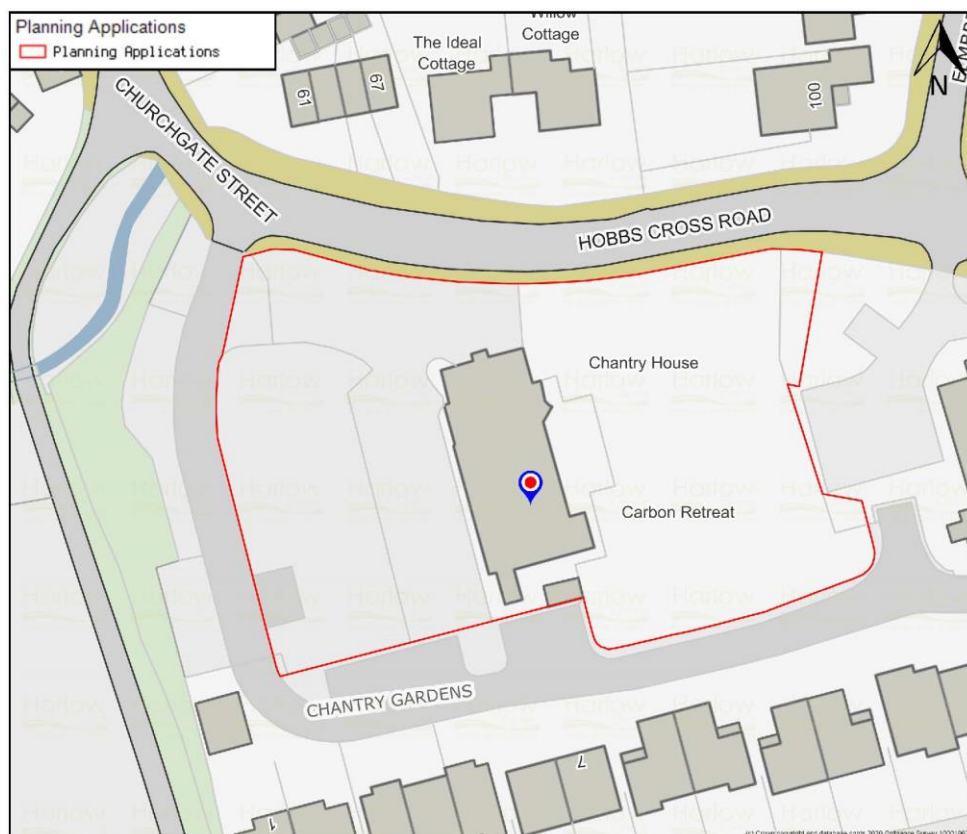
**OFFICER:** Mick Gavin

**APPLICANT:** Mr Warner

**LOCATION:** Chantry House  
Churchgate Street  
Harlow  
Essex  
CM17 0JT

**PROPOSAL:** Conversion of the Hotel at Chantry House into 11 residential flats, and the erection of four single-storey dwellings within the site to the rear. The proposal includes a series of internal and external alterations to the listed building, landscaping, along with the installation of refuse and cycle stores.

## LOCATION PLAN



## **Reason brought to Committee**

Whilst the application is recommended for refusal, it is intrinsically linked to the listed building application which has received more than two letters of objection contrary to the officer recommendation of approval. Therefore, for the sake of completeness this application is referred to Committee to enable members to consider both applications together.

## **Summary**

The proposal seeks listed building consent for internal and external works to the building to enable its conversion to 11 flats. The alterations are found to be acceptable in terms of their impact on the significance of the heritage asset.

Whilst officers are of the opinion that the principle of development is acceptable, as are matters of design, appearance and amenity, there remains unresolved issues in relation to the provision of affordable housing, infrastructure provision and flood risk and in the absence of an acceptable position being reached the application conflicts with policy and is recommended for refusal.

## **Site and surroundings**

Chantry House is a 17<sup>th</sup> century Grade II listed building (list entry: 1111702) set within the Churchgate Street Conservation Area. The site is located at the bottom of a hill on the southern side of the highway where Churchgate Street and Hobbs Cross Road meet. The building has a garden area on its east side with trees, shrubs, hedging and garden ornaments. A gravelled parking and turning area exists on its west side accessed from the north-western corner of the site, near the bend in the highway.

Originally built as a house the building has been extensively altered throughout its lifetime, with various internal and external interventions. The building has served as a school, and in 1960 became a hotel, which grew to 42 bedrooms by 1974. It has subsequently been used by various hotel concerns and was last in use as a hotel but is now vacant.

Planning permission and Listed Building Consent was granted in 2016 (HW/FUL/15/00504 & HW/LBC/15/00505). This work included significant demolition to remove modern additions to the historic building, including a large hotel wing to the rear, the conversion of the hotel annex into 12 flats and erection of a row of 14 two storey, semi-detached houses along what is now known as Chantry Gardens. The planning permission also allowed for the erection of 8 no. single storey, garden suites, next to the retained historic building. These garden suites were not built.

The loss of the hotel use is considered acceptable in principle having regard to the HLDP 2020, which does not include a policy which would seek retention of an existing hotel use in this location. Notwithstanding that, the applicant states that the current hotel operation is unprofitable due to its location, layout and small size - 8 suites do not generate the threshold of visitor numbers to support the costs of running the business. This is borne out by recent failed hotel ventures here and present vacant condition of the building. Specialist hotel market advice has been taken by the applicant.

Houses sit to the north, on the opposite side of Churchgate Street/Hobbs Cross Road. Churchgate Street runs north and has a church, post office, shop and public house. Many of the properties date back to the 17th and 18th centuries. The main entrance also serves as the access road to the recently completed development to the immediate south (rear of site) and named Chantry Gardens. This development comprises semi-detached and terraced

houses over 2 storeys. These houses form a prominent backdrop to the site as viewed from public vantages to the north. South of Chantry Gardens is a school and there is extensive Green Wedge open space west of the site. To the site's east, there is a three storey flatted block, previously part the largely demolished hotel extensions. Further away from the site is Churchgate Primary School.

Beyond the northern boundary, to Churchgate Street/ Hobbs Cross Road, land falls within Flood Zone 2. The site itself is within Flood Zone 1 (area of lowest risk).

### **Details of Proposal:**

The application seeks permission for 15 dwellings comprising conversion of Chantry House to 11 flats and four new build bungalows arranged as a pair of semis.

The proposed mix is as follows:

#### Chantry House:

8x 1bedroom/ 2person flats  
2x 2bedroom/ 4person flats  
1x 3bedroom/ 5person flats

#### New houses:

4 x 1bedroom/ 2person arranged as two pairs of semis.

The conversion of the hotel into flats would involve a series of internal and external modifications to the Listed Building. Internally these comprise introduction of new partition walls, alterations of existing fabric (comprising a combination of non-original and historic fabric) and installation of secondary glazing. Externally these comprise reinstatement of original front entrance (previously blocked up), and incorporation of new double doors to entrance.

The new build units would be sited adjacent to the southern part of the site, to the immediate rear of Chantry House and adjacent to the south side of the road serving Chantry Gardens. The dwellings are of a more traditional design to the front – pitched roof, red brick and gable roof porch - and a more contemporary design to the rear, including low pitch roof with rooflight and generous rear facing glazing. A material palette of glass, off-white render and red brick to reference Chantry House and Chantry Gardens houses.

Car parking would be provided on the existing forecourt of the building with no change to the existing extent of this. Secure cycle parking would be provided to the rear of Chantry House.

Revisions to the scheme were made following submission including re-siting the bungalows to increase garden sizes.

A concurrent application for listed building consent was made - reference HW/LBC/22/00302 which is on the agenda for consideration.

## RELEVANT PLANNING HISTORY:

<u>App Number</u>	<u>Proposal</u>	<u>Status</u>	<u>Decision Date</u>
HW/FUL/15/00202	Demolition of the Modern Additions to the Grade II Listed Churchgate Hotel. Refurbishment of the Original Listed Hotel, and the Conversion of the Replica Building into 12 No. Affordable Apartments. The Erection of 4 No. New Residential Blocks Comprising in Total 32 No. New Dwellings, with Associated External Works and Parking.	WDN	07.07.2015
HW/LBC/15/00203	Demolition of the Modern Additions to the Grade II Listed Churchgate Hotel. Refurbishment of the Original Listed Hotel, and the Conversion of the Replica Building into 12 No. Affordable Apartments. The Erection of 4 No. New Residential Blocks Comprising in Total 32 No. New Dwellings, with Associated External Works and Parking.	WDN	07.07.2015
HW/FUL/15/00504	Demolition of the Modern Additions to the Grade II Listed Churchgate Hotel. Refurbishment of the Original Listed Hotel. The Erection of 8 No. New Single Storey Garden Suites to be Associated with the Hotel. The Conversion of the Replica Building into 9 No. Affordable Flats and 3 No. Market Flats. The Erection of 14 No. New Residential Houses Comprising in Total 26 No. New Dwellings, with Associated External Works and Parking.	S106	27.04.2016
HW/LBC/15/00505	Demolition of the Modern Additions to the Grade II Listed Churchgate Hotel. Refurbishment of the Original Listed Hotel. The Erection of 8 No. New Single Storey Garden Suites to be Associated with the Hotel. The Conversion of the Replica Building into 9 No. Affordable Flats and 3 No. Market Flats. The Erection of 14 No. New Residential Houses Comprising in Total 26 No. New Dwellings, with Associated External Works and Parking.	GTD	27.04.2016
HW/LBC/16/00415	Internal and External Alterations to the Grade II Listed Churchgate Hotel Following Approval to Demolish and Alter the Existing Building Under Applications HW/FUL/15/00504 & HW/LBC/15/00505	GLBC	14.11.2016
HW/S106/17/00369	Application to Modify Planning Obligation to Provide an Off Site Financial Contribution in Lieu of On Site Affordable Units	GTD	15.08.2018
HW/FUL/17/00523	Installation of 2 Barn Doors to Cart Lodge to Create Secure Garaging	GTD	18.01.2018
HW/REMPVAR/17/00556	Application for Variation of Condition 20 of HW/FUL/15/00504 In Order To Make Minor Amendments To The 'Replica Building'.	GTD	27.02.2018
HW/TP/18/10041	M-Field Maple To Be Reduced by 30% By Pollarding and Lift By 2m. To The Crown.	ROB	24.09.2018

	Y-Yew Tree To Be Exposed By Removing Surrounding Weeds and Holly Bush Which are Choking The Yew. Once Exposed-To Be Pollarded. L1-Lime To Be Pollarded and Lifting by 3m. L2-Lime To Be Pollarded and Lifting by 3m. L3-Lime To Be Pollarded and Lifting by 3m. L4-Lime To Be Pollarded and Lifting by 3m.		
HW/LBC/22/00302	Conversion of the Hotel at Chantry House into 11 residential flats, and the erection of four single-storey dwellings within the site to the rear. The proposal includes a series of internal and external alterations to the listed building, landscaping, along with the installation of refuse and cycle stores.	PCO	
HW/FUL/75/00028	Extension to provide 48 additional bedrooms (26 double, 22 single) and increase in car parking facilities.	GTD	07.10.1975
HW/TP/02/10008	Root Pruning and Lower Sucker Growth Pruning of 1No. Spanish Chestnut Tree	RNO	
HW/TP/01/10047	13 Lime Trees Crown Lift Along Public Footpath (T1 - T13). (T3 Reduce And Reshape in Car Park) Walnut Tree Reshape by 2 Meters And Crown Lift	GTD	
HW/ST/99/00081	Continued Use of of Leisure Club with Extended Opening Hours: Saturday 7 am - 1 pm Sunday 7 am - 1 pm	GTD	16.06.1999
HW/PL/12/00395	To Erect a 800mm Picket Fence. A Top Front Boundary Wall to Replace Failed Column and Rails	GTD	19.03.2013
HW/PL/85/00133	Construction Of New Swimming Pool And Bar In Existing Courtyard And Alterations To Reception, Stones Etc.	GTD	17.12.1985

## CONSULTATIONS

### Internal and External Consultees

#### Essex County Council - Lead Local Flood Authority (LLFA)

Holding objection:

- Please provide the infiltration testing report referenced in Section 4.1 of the FRA to confirm the feasibility of infiltration on this site. If infiltration is evidenced as unviable, as the site is situated within the Old Harlow Critical Drainage Area the LLFA would prefer a discharge rate of 1l/s. It should be evidenced why restricting to 1l/s is unfeasible and that the rate proposed (1.9l/s) is as close as feasibly possible to the 1 in 1-year greenfield runoff rate.
- More information is required regarding the proposed outfall location to the 'assumed culverted watercourse'. Our records show that at the proposed point of connection, the culverted section is within third party land. Please apply for S23 Ordinary Watercourse Consent and establish where a connection may be viable (see advisory for more information). 2
- The drainage plan should be detailed with all storage volumes, CL's and IL's, and FFL's added. • All manholes and pipework should be captured within the hydraulic modelling,

including the drainage from the 4 dwellings to the attenuation tank, inclusive of the SDS Aqua Swirl chamber.

- Please clarify whether the depth of permeable paving section 3 is 500mm or 800mm.
- Please update the hydraulic modelling and/or drainage plan accordingly ensuring both align.
- Please provide the half drain down time for the storage structures.
- Please confirm that the 'Modified Ration Method' calculations have only been included to demonstrate the existing drainage scenario.

## **Essex County Fire and Rescue Service**

Access for Fire Service purposes has been considered in accordance with the Essex Act 1987 - Section 13 and is acceptable provided that the arrangements are in accordance with the details contained in the Approved Document to Building Regulations B5. More detailed observations on access and facilities for the Fire Service will be considered at Building Regulation consultation stage.

### Sprinkler Systems

Recommend use of sprinkler system.

## **Essex County Council Place Services – Heritage**

No in principle objection to the change of use. There were previous concerns regarding the proposed internal divisions which had an adverse impact on the plan form and room proportions, particularly in unit 7 and 11. the proposed floorplan to unit 11 has been amended to address previous concerns. However, concerns remain outstanding for unit 7. The proposed partition wall would create a corridor within a principal room and result in a fireplace located in the corridor; this would be an atypical arrangement and detract from the understanding and appreciation of historic floorplans and room proportions. Unit 7 would be located within oldest part of the property and is therefore more sensitive to change. Currently, the proposal would be harmful to the listed building's significance due to the internal division in unit 7 and paragraph 202 of the NPPF would be relevant.

With regards to the single storey dwellings to the rear; taking into consideration the 2015 permitted scheme, the proposed dwellings would not result in any additional harm to the setting of the listed building. They have a more traditional form compared to the previous scheme and remain subservient to the listed building.

*Officer comment: See Heritage section below.*

## **Essex County Council – Highway Authority**

*The proposal is acceptable to the Highway Authority subject to the following measures:*

1. *Prior to the first occupation of the development the vehicle parking and turning areas as indicated on the approved plans shall be provided, hard-surfaced, sealed and marked out. The parking and turning areas shall be retained in perpetuity for their intended purpose.*  
*Reason: To ensure that appropriate parking and turning is provided.*
2. *The cycle parking facilities, as shown on the approved plan, are to be provided prior to the first occupation of the development and are to be retained as such for the life of the development.*  
*Reason: To ensure that appropriate bicycle parking is provided.*

*The above measures are to ensure that the proposal is not contrary to the Highway Authority's Development Management Policies, adopted as County Council Supplementary Planning Guidance in February 2011, Policies IN1, IN2 and IN3 of the Harlow Local Development Plan 2020, and the NPPF 2021.*

## **HDC - Cleansing and Environment**

The proposal is for a management company to wheel the bins from the bungalows on the far side of the development to a collection point on the western boundary. The communal bins would also be brought to this boundary on collection days.

*Officer comment:* Extensive discussion has taken place regarding provision of acceptable waste and recycling storage and collection arrangements. It appears likely that a management regime would need to be secured either by condition or legal agreement. The final resolution of this has not been determined, but it is likely that matter could be satisfactorily resolved. In the light of the recommendation for refusal on other grounds this issue has not been pursued further at this time.

## **Neighbours and Additional Publicity**

Number of Letters Sent: 60

Total Number of Representations Received: 56

Date Site Notice Expired: 14 October 2022

Date Press Notice Expired: 13 October 2022

## **Summary of Representations Received**

56 representations were received which object to the proposal on the grounds summarised below.

### Residential amenity

- Too close to house in Chantry Gardens and would adversely affect quality of life of these residents
- Noise from new residents and HGV construction traffic
- Overlooking and loss of privacy for Chantry Gardens residents and occupiers of new dwellings due to intervisibility between the properties and height of new bungalows; new builds would have gardens and living spaces giving views in to Chantry Gardens living room and bedroom windows; roofspace could be converted in future to cause massive overlooking impacts; overlooking of windows in Churchgate Court approx. 10m away.
- Loss of light and outlook in views from Chantry Gardens and Churchgate Court

### Character and appearance

- Excessive density and over development
- Out of keeping with Chantry House, area and street scene due to excessive height and pitched roof catslide roof design and excessive amount of glazing; out of keeping in area of houses and flats; height of houses not accurately shown
- Location of bin store unacceptable – prominent, unsightly, detrimental to street scene, blight on landscape, adverse visual impact on approach to Chantry Gardens and entire village; potential vermin, health hazard, significant smell in warmer weather; prone to vandalism and damage by cars, would need endless maintenance; need clarification of waste management

## Heritage

- Not sympathetic to listed building; would destroy grounds of listed building
- Out of keeping in rural lane in Conservation Area

## Parking and highways

- Car parking and traffic generation already unbearable and development would worsen saturation particularly at school drop-off and pick-up times; inadequate parking provision for residents and visitors – no public transport in Churchgate Street
- Would worsen road safety for example at bend in road, this is a narrow rural lane
- Insufficient turning space for emergency vehicles; emergency vehicles would have difficulty accessing bungalows; refuse vehicles would obstruct drive for residents; HGVs would damage road in Chantry Gardens
- More noise and pollution from more vehicle

## Trees and biodiversity

- Loss of mature trees, open space and irreplaceable nature and wildlife habitat including nesting birds; disagree with Council's assessment of maple to be removed – an important tree visually and for wildlife habitat and should be retained; how can removing established trees increase biodiversity by 7.2% as stated by the applicant

## Flooding

- High risk of flooding in area just beyond site boundary; more should be done to mitigate surface water runoff; Churchgate Court has had drainage problems and the bungalows will have the same – not a suitable site for dwellings; rainwater harvesting should be considered

## Sustainability

- No attempt to upgrade thermal performance of Chantry House which would reduce size of air source heat pumps; single district heating solution should be considered instead of individual heat pumps for dwellings; no consideration of PVs or thermal; no electric vehicle charging points – should be provided for residents and local community; extent of south facing glazing on bungalows will cause overheating and energy intensive cooling

## Other

- No need for new houses here given existing nearby development at Gilden Park and Newhall
- Question how much effort was put into making hotel a going concern that white Jacobean façade to Chantry House would be lost
- No affordable housing provision



# PLANNING POLICY

## National Planning Policy Framework (NPPF)

The Development Plan is prepared taking account of the National Planning Policy Framework (NPPF) (as extant at the time - the NPPF is regularly updated; currently in its 2023 version) and the associated Planning Practice Guidance (PPG) (first published in March 2014 but also regularly updated with the NPPF). The relevant strands are considered further in the report.

## Development Plan

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that “where in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material consideration indicates otherwise”.

The Local Plan in this instance is the Harlow Local Development Plan (2020).

### Harlow Local Development Plan 2020

Planning law requires that proposals should be determined in accordance with the Development Plan unless material considerations indicate otherwise.

The Development Plan for the site consists of the Harlow District Council (HDC) Harlow Local Development Plan 2020 (HLDP), Essex County Council (ECC) Essex and Southend-on-Sea Waste Local Plan 2017 and ECC Essex Minerals Local Plan 2014.

The part of the Development Plan applicable to the proposal is the HDLP. The HDLP is prepared in the context of the National Planning Policy Framework (NPPF) – see ‘Planning Standards’ below. It is important to note that this is a very recently adopted and therefore ‘up to date’ plan in terms of NPPF Para.12.

Policies of most relevance to the proposal are:

- SD1 – Sustainable development
- HS1 – Housing Delivery
- HS2 – Housing Allocations
- WE3 – biodiversity and geodiversity
- WE4 – Heritage
- SIR1 – Infrastructure requirements
- PL1 – Design principles
- PL2 - Amenity Principles
- PL3 – Sustainable Design, Construction and Energy Usage
- PL6 – Other Open Spaces
- PL7 – Trees and Hedgerows
- PL8 – Green Infrastructure and Landscape
- PL9 – Bio and Geo Assets
- PL10 - Pollution/Contamination
- PL11 – Water environment
- PL12 - Heritage
- H1 – Housing Allocations
- H2 - Residential Development
- H5 – Accessible and Adaptable Housing

H6 – Housing Mix  
H8 - Affordable Housing  
L3 - Public art  
L4 - Health and Wellbeing  
IN1 - Sustainable Modes of Travel  
IN2 - Impact on Highway Network  
IN3 - Parking Standards  
IN6 - Planning Obligations

#### National Planning Policy Framework (NPPF) (2023)

The Development Plan is prepared taking account of the National Planning Policy Framework (NPPF) (as extant at the time - the NPPF is regularly updated; currently in its 2023 version) and the associated Planning Practice Guidance (PPG) (first published in March 2014 but also regularly updated with the NPPF). The NPPF is a material consideration in the determination of applications.

#### HDC Design Guide SPD (2011)

Design Guide Addendum SPD (adopted December 2021).

#### Essex Parking Standards (2009)

ECC Development Management Policies (2020 - living document with regular updates).

#### HGGT Guidance

Harlow and Gilston Garden Town (HGGT) is a designated 'Garden Community' under the Government's Garden Communities Programme.

NPPF Para.72 provides the national policy context for Harlow and Gilston Garden Town (HGGT) as a location for larger scale (housing) development. Of particular note is the emphasis on; existing or planned investment in infrastructure, the areas economic potential and the scope for net environmental gains..... plus; clear expectations for the quality of development and how this can be maintained (such as by following garden city principles).

The HGGT (Local Authorities) Partnership has published a series of documents that set the standards expected for developments in the Garden Town and are therefore relevant to this application.

The HGGT Vision elaborates on the HGGT's interpretation of garden city principles and sets expectations for high quality development to accord with the principles.

The HGGT Design Guide requires consideration of design quality in a garden city principles sense and draws attention to specific local issues.

### **Main Considerations**

#### Principle of Development

At the heart of the NPPF 2021 is a presumption in favour of sustainable development which meets social, economic and environmental needs. One of the core principles in the NPPF is that planning should encourage the effective use of land. Paragraph 119 of the NPPF states that planning decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe

and healthy living conditions. Paragraph 120 states that decisions should give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs.

Paragraph 60 of the NPPF states that to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed and that land with permission is developed without unnecessary delay

Policy SD1 of the HLDP reiterates the presumption in favour of sustainable development and sets out that development that accords with the Local Plan will normally be supported, unless material considerations indicate otherwise. Policy HS1 states that the Local Plan identifies sites to deliver at least 9,200 dwellings during the Local Plan period (1 April 2011 to 31 March 2033). The site is not within an allocated site identified for housing growth within the HLDP, and therefore is a windfall site. Policy HS1 states that windfall sites can provide a number of additional unexpected dwellings and can be a useful addition to the housing mix in the district in terms of tenure, price and design.

The proposal would provide 15 dwellings in a mix of flats and bungalows on a site which has previously been granted permission for conversion of the existing property to flats (HW/FUL/15/00504, see History below).

The principle of development has thereby been previously established and is supported.

### Design and its impact on the character and appearance of the Heritage Assets

Policy PL1 of the HLDP and the Harlow Design Guide seek to ensure development would reflect and enhance the character and appearance of the surrounding area.

Policy PL12 seeks to protect heritage assets and their settings.

### Chantry House

External alterations proposed are very limited and no objection is raised to these. While the internal layout changes are also broadly acceptable, the layout of unit 7 at first floor is not considered appropriate by the Heritage Consultant. This is because a proposed partition wall would create a corridor within a principal room and result in a fireplace being located in the corridor which would be an atypical arrangement and detract from the understanding and appreciation of historic floorplans and room proportions. Unit 7 would be located within oldest part of the property and is therefore more sensitive to change. The Heritage Consultant advises that this would constitute 'less than substantial' harm pursuant to the NPPF.

The applicant has explained that the layout is required to meet building regulations fire safety standards that while they have explored alternative solutions it has not been possible to address this issue. Following further consideration officers consider that the public benefit of bringing the building back into use is sufficient to offset the less than substantial harm which has been identified. On balance therefore, the impact on the heritage significance of the hotel building is considered acceptable.

### Bungalows

The bungalows would occupy a similar area of the site as the garden suites approved in 2016. They would occupy a larger area however with a 27% larger footprint (334sqm compared to the suites' 262sqm) and would be 2.5m higher at ridge height than the suites'

flat roofs. The dwellings would be a traditional red brick and pitched roof design, with rendered gabled porches to the front, with a more contemporary approach at the rear comprising a low pitch catslide type roof with roof light, and generous glazing to the rear elevation.

The Council's Heritage Consultant confirms that given the subordinate scale of the buildings their impact on the setting of the listed building is acceptable. The proposed siting is at the southern edge of the Conservation Area and would be obscured from wide views by Chantry House and Churchgate Court. The main view would be from the stretch of Churchgate Street / Hobbs Cross Road between those buildings. Over this relatively short stretch, views would be of single storey buildings set between 36m and 40m back from the site boundary, and in the context of a backdrop of the two storey houses set at a higher level within Chantry Gardens. Taking this into account it is considered no material harm would result to the character and appearance of the Conservation Area.

In terms of the street scene in Chantry Gardens, views would be of single storey, pitched roof bungalows set 1.2m below road level and it is therefore not considered that any significant harm would result to the appearance of the street scene and setting of the Conservation Area at this point.

The proposal is considered acceptable pursuant to policies PL12 and PL1.

### Trees and landscaping

Three trees including a field maple, lime and willow would be removed. Landscaping details are submitted which include planting of 8 new trees within the site, enhancement of the grassland area at the north of the site to include wildflower planting (which can encourage insects), and native species rich hedgerow to the southern edge of the site to add to retained existing hedging.

While the loss of existing trees is regrettable, overall the submission includes provision of eight replacement trees. Enhanced landscaping is also proposed. While the site does not benefit from any designated biodiversity status such as Local Wildlife Site, its intrinsic ecological value has been demonstrated to be enhanced by the proposed wildflower and native hedge planting.

The proposal is therefore considered to generally accord with policies PL7 and PL8 of the HLDP 2020.

### Biodiversity

The application was submitted prior to the introduction of mandatory biodiversity net gain. Policy PL9 requires proposals to show a net gain. A Biodiversity Net Gain (BNG) Report accompanied the application which used the 'Biodiversity Metric 3.1 to assess the impact of the proposal.

The submitted BNG calculation shows an increased on site habitat biodiversity of 7.22%. This is due to the increase wildflower planting within the grassland area. The hedgerow habitat units show a large increase in habitat units due to the native hedgerow planted on the southern edge of the site, this presents a 107.01% increase in hedgerow units.

The proposal would thereby accord with policy PL9 of the HLDP 2020.

## Residential Amenity

Policy PL2 of the HLDP 2020 policy seeks to preserve the amenity of existing neighbours, in terms of the privacy, light and outlook they currently enjoy.

Existing residents in Chantry Gardens have expressed concerns that their existing amenities in all these respects would be harmed by the new bungalows.

The separation distance between the new bungalows and the existing houses in Chantry Gardens opposite, would be 14.4 at the closest point and 19.7m at the furthest point. In addition, the bungalows would be set 1.2m below road level. Design Guide Addendum guidance on light impacts from new development is that new development should be set below a line of 30-degrees from the centre of the lowest window of a habitable room in an adjoining existing property (the '30-degree rule'). The proposed development would comply with this test by a wide margin and no loss of light would occur to existing residents opposite. As regards outlook/ aspect from the front of the existing houses, the separation distances referred to above are too great to result in any material harm in terms of shading or causes an overbearing sense of enclosure. Some loss of views over the rear garden area and beyond would occur, but the planning system does not protect views, it rather seeks to prevent new development close to existing dwellings resulting in oppressive or overbearing enclosure impacts on outlook. No such impacts would occur in this case.

In terms of privacy, dwellings facing each other across a street is a usual relationship. Notwithstanding that, the front windows to the bungalows, facing towards the houses opposite in Chantry Gardens, would serve en-suite bedrooms, with each property's living/ dining space facing inwards across the gardens towards Churchgate Lane. No loss of privacy to the occupants of Chantry gardens would occur, beyond the presence of new neighbours across the street.

The proposal is considered to result in no material harm to residential amenity. A Construction Management Plan could be required by condition to address construction phase impacts.

The proposal complies with the requirements of policy PL2 and guidance in the Design Guide Addendum 2020.

## Standard of accommodation

Policy PL2 of the HLDP 2020 policy seeks to ensure provision of appropriate levels of amenity for future occupants.

All dwellings proposed would have an internal floor space that meets minimum space standards. The units will offer a high standard of living accommodation, with appropriate levels of daylight, outlook and privacy.

Following amendments to the scheme all bungalows now have private gardens which meet the minimum external amenity area standard of 50sqm for one and two bedroom dwellings set out in the Design Guide Addendum SPD (2021). Three of the units have gardens of 50sqm and one unit has a garden of 63sqm.

The new flats would have no private external amenity space, and balconies are not appropriate due to the listed status of the building. However, these residents would have access to a substantial communal garden, including tree planting and landscaping, comprising 1194sqm. This area is considered to meet the requirement of the Design Guide

Addendum that communal amenity spaces be designed with clear landscape proposals and form a usable and attractive environment. Public open space forming part of a designated Green Wedge is also close by.

In these circumstances the proposal is considered to comply with the requirements of policy PL2 in respect of the amenity of future occupiers.

### Parking and highways

Essex County Council Highway Authority have raised no objection to the scheme as it is not contrary to the Highway Authority's Development Management Policies (2011).

A total of 20 car parking spaces are proposed. These would be located on the existing area of gravelled parking and turning space which was implemented following the permission in 2016. No alterations to that area including its areas of planting are proposed. Spaces would meet minimum dimensions of 2.9m by 5.5m

The number of parking spaces accords with the parking standards guidance which requires 18 spaces (based on 1 space per 1-bed unit and 2 spaces per 2-bed and above units), and an additional 3 spaces for visitors (based on 0.25 spaces per dwelling).

An external secure cycle store would provide 7 two-tier cycle racks, giving a total of 14 cycle spaces, which exceeds the requirement of one space per unit.

A number of neighbour comments refer to access difficulties for emergency vehicles. However, it is noted that the Fire and Rescue Service have considered the access and found it meets their requirements. The Highway Authority raises no safety concern,

### Affordable housing

Policy H8 of HDLP states that in residential developments of more than 10 dwellings, it will be expected that at least 30% affordable housing is provided. Reduction of this percentage may be permitted for viability reasons. Any reduction or non-agreement between the developer and the Council will require an independent Viability Assessment.

The applicant submitted a financial viability assessment (FVA) to demonstrate that a 100% private development would not be viable if it provided any affordable units. The FVA was reviewed by the Council's independent consultant and there was disagreement on the price and cost values and particularly on the Benchmark Land Value which the consultant found to be £615,000 lower than the FVA. The consultant found that the scheme would generate a surplus of c. £910,000 and therefore could viably contribute towards affordable housing. A rebuttal statement was submitted but a final position was not reached.

Given the time which has elapsed the FVA is now over two years old (dated April 2022). It also does not include other S106 required contributions including £5976.21 per dwelling for STCs.

The failure demonstrate compliance with affordable housing and S106 infrastructure requirements conflicts with policies H8 and IN6 of the Harlow Local Development Plan 2020 and with the Harlow Affordable and Specialist Housing Supplementary Planning Document 2021.

## Flooding

Policy PL11 of the HLDP 2020 requires appropriate assessment and mitigation of flood risk and provision of sustainable drainage measures.

The application site appears to be Flood Zone 1 but it adjoins land within Zones 2 and 3 – a Main River is culverted under Hobbs Cross Road which forms the northern boundary to the site. A serious flooding incident occurred at the site / its adjoining land during the lifetime of the development.

The drainage strategy is to drain the bungalows/ garden area by infiltration to an existing attenuation tank sited beneath the garden to Chantry House, which was installed to serve the houses in Churchgate Gardens. The Lead Local Flood Authority (LLFA) issued a holding objection and direct discussions between the applicant and the LLFA took place. Further submissions arising from those discussion resulted in a further holding objection (set out in the consultation section above) which the applicant has not been able to address.

The proposal is not considered to be acceptable in terms of flood risk and thereby conflicts with policy PL11.

## **Equalities**

Section 149 of the Equality Act 2010, which came into force on 5th April 2011, imposes important duties on public authorities in the exercise of their functions, including a duty to have regard to the need to:

“(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;  
(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;  
(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.”

For the purposes of this obligation the term “protected characteristic” includes:

- age;
- disability;
- gender reassignment;
- pregnancy and maternity;
- race;
- religion or belief;
- sex;
- sexual orientation.

The above duties require an authority to demonstrate that any decision it makes is reached “in a fair, transparent and accountable way, considering the needs and the rights of different members of the community and the duty applies to a local planning authority when determining a planning application.” Officers consider that the application does not give rise to any concerns in respect of the above

## **CONCLUSION**

Issues of affordable housing and infrastructure, and flood risk, have not been resolved and the proposal conflicts with the Development Plan in these respects.

## RECOMMENDATION

**That Committee resolves to refuse planning permission for the following reasons:**

1. In the absence of evidence to the contrary and a legal agreement to control matters, the proposal would fail to secure a reasonable commuted sum towards the provision of affordable housing and other infrastructure requirements. The proposal is therefore contrary to policies H8 and IN6 of the Harlow Local Development Plan 2020, and the Harlow Affordable and Specialist Housing Supplementary Planning Document 2021.
2. The submission fails to demonstrate that sustainable drainage measures can be incorporated into the scheme to ensure that the site and its surroundings are not exposed to increased flood risk. The proposal thereby conflicts with Policy PL11 of the Harlow Local development Plan 2020 and with flood risk policy in the NPPF 2023.

## INFORMATIVE CLAUSES

1. The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. Unfortunately, it has not been possible to resolve those matters within the timescale allocated for the determination of this planning application. However, the Local Planning Authority has clearly set out, within its report, the steps necessary to remedy the harm identified within the reasons for refusal - which may lead to the submission of a more acceptable proposal in the future. The Local Planning Authority is willing to provide pre-application advice in respect of any future application for a revised development.
- 2 The following plans were considered in the determination of this application:

<u>Plan and Document Reference</u>	<u>Date Received</u>
GDL_001	09.09.2022
GDL_152	04.07.2022
GDL_153	04.07.2022
GDL_160	04.07.2022
GDL_161	04.07.2022
GDL_170	04.07.2022
GDL_171	04.07.2022
GDL_201	04.07.2022
GDL_202	04.07.2022
GDL_210	04.07.2022



GDL_203	04.07.2022
GDL_204	04.07.2022
GDL_205	15.05.2023
GDL_211	04.07.2022
GDL_212	04.07.2022
GDL_213	04.07.2022
GDL_214	04.07.2022
GDL_215	15.05.2023
GDL_220	04.07.2022
GDL_221	04.07.2022